TRIAL — TAKING CASE FROM JURY — DIRECTING VERDICT ON EVIDENCE RAISING A PRESUMPTION SUPPORTING THE BURDEN OF PROOF. — A bailor sued a bailee for negligently injuring a horse hired to the bailee. He introduced evidence that the horse was in good condition when delivered to the bailee and was badly injured when returned, and then rested. The bailee offered no evidence. A motion by the bailor for a directed verdict was refused. The jury returned a verdict for the bailee. *Held*, that judgment be reversed and a new trial granted. *Sheriff Street Stables* v. *Mandel*, 185 N. Y. Supp. 83.

A bailee for hire is liable for an injury to the property hired due to ordinary negligence. *Buis* v. *Cook*, 60 Mo. 391. See STORY, BAILMENTS, 9 ed., § 399. By the great weight of authority the burden of establishing negligence rests upon the bailor. *Sanford* v. *Kimball*, 106 Me. 355, 76 Atl. 890; *Stone* v. *Case*, 34 Okla. 5, 124 Pac. 960. But where the property is delivered to the bailee in a good condition and is returned damaged, negligence is presumed, thus placing upon the bailee the burden of producing evidence of some other cause of injury. *Davis* v. *Taylor & Son*, 92 Neb. 769, 139 N. W. 687; *Jackson* v. *McDonald*, 70 N. J. L. 594, 57 Atl. 126; *Lyons* v. *Thomas*, 68 N. Y. Supp. 802. See 4 WIGMORE, EVIDENCE, § 2508. It is now well settled that a verdict may be directed for the proponent, *i. e.* the party having the burden of establishing the issue. *North Penn. Railroad* v. *Commercial Bank*, 123 U. S. 727; *Harding* v. *Roman Catholic Church*, 113 App. Div. 685, 99 N. Y. Supp. 945, aff'd 188 N. Y. 631, 81 N. E. 1165. See 4 WIGMORE, EVIDENCE, § 2495. Where the proponent's evidence clearly establishes the issue and the opposing party offers no evidence, a directed verdict is proper. *Rasch* v. *Bissell*, 52 Mich. 455, 18 N. W. 216; *Mellon Nat. Bank* v. *People's Bank*, 226 Pa. St. 261, 75 Atl. 363. The rule should be the same where the proponent produces evidence raising a presumption sustaining the burden of establishing the issue. *Cf. Magoffin* v. *Missouri Pac. Ry. Co.*, 102 Mo. 540, 15 S. W. 76. See 6 HARV. L. REV. 125, 129. See 4 WIGMORE, EVIDENCE, § 2495. The court was clearly right in holding that there was error. A new trial, however, is an expensive and cumbersome form of relief. The desirable way of correcting such an error is by entering a judgment notwithstanding the verdict. See *Bothwell* v. *Boston Elevated Railway*, 215 Mass. 467, 102 N. E. 665. Under the New York CODE OF CIVIL PROCEDURE, § 1317, however, a new trial must be granted unless it is manifest that no possible proof applicable to the issue would entitle the defeated party to recover. *New* v. *Village of New Rochelle*, 158 N. Y. 41, 52 N. E. 647.

BOOK REVIEWS

THE LIFE OF JOSEPH HODGES CHOATE. By Edward Sandford Martin. New York: Charles Scribner's Sons. 1920. 2 vols. pp. viii–471; vii–439.

Biographies are of various kinds. There is the philosophical anecdotal form, such as Plutarch's Lives, at which Montaigne said "I eternally fill," and concerning which he observed: "Plutarch had rather we should applaud his judgment than commend his knowledge, and had rather leave us an appetite to read more than glutted with that we already read." There is the day-by-day chronicle of a faithful admirer, such as that by which James Boswell made himself almost more famous than Dr. Johnson. There are the biographies written by one who has mastered every detail of the life and time of his subject, absorbed himself with increasing ardor in his personality, and then given such a picture of the man as to create a living personality whom the reader feels he has known and loved (or hated) in actual life. Such is Pro-